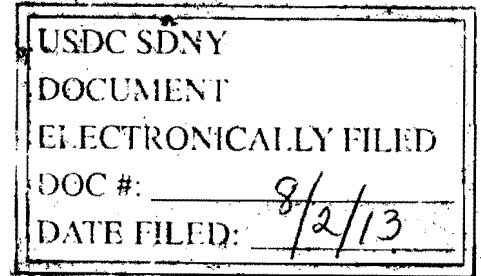


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



- - - - - X
:
UNITED STATES OF AMERICA
:
v.
:
ZHANNA KUZNETSOVA,
:
:
Defendant.
:
- - - - - X

ORDER

11 Cr. 614 (VM)

WHEREAS, with the defendant's consent, her guilty plea allocation was taken before a United States Magistrate Judge on April 19, 2013;

WHEREAS, a transcript of the allocation was made and thereafter was transmitted to the District Court; and

WHEREAS, upon review of that transcript, this Court has determined that the defendant entered the guilty plea knowingly and voluntarily and that there was a factual basis for the guilty plea;

IT IS HEREBY ORDERED that the defendant's guilty plea is accepted.

SO ORDERED:

Dated: New York, New York

2 August, 2013

A handwritten signature in black ink, appearing to read "Victor Marrero".

HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

11 CR 614 (VM)

5 ZHANNA KUZNETSOVA,

6 Defendant.

7 -----x

8 April 19, 2013
9 11:40 a.m.

10 Before:

11 HON. JAMES C. FRANCIS,

12 Magistrate Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

BY: MICHAEL LOCKARD

18 Assistant United States Attorney

19 ANTHONY STRAZZA

20 Attorney for Defendant
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1 (Case called)

2 MR. LOCKARD: Good morning, your Honor, Michael
3 Lockard for the government.

4 THE COURT: Good morning.

5 MR. STRAZZA: Good morning your Honor, on behalf of
6 Ms. Kuznetsova, Anthony Strazza, S-t-r-a-z-z-a.

7 THE COURT: Good morning.

8 I believe the first order of business is waiver of the
9 indictment.

10 Proceed with that.

11 THE DEPUTY CLERK: You are Zhanna Kuznetsova?

12 THE DEFENDANT: Yes.

13 THE DEPUTY CLERK: Have you signed this waiver of
14 Indictment?

15 THE DEFENDANT: Yes.

16 THE DEPUTY CLERK: Before you signed it, did you
17 discuss it with your attorney?

18 THE DEFENDANT: Yes.

19 THE DEPUTY CLERK: Did your attorney explain it to
20 you?

21 THE DEFENDANT: Yes.

22 THE DEPUTY CLERK: Do you understand what you are
23 doing?

24 THE DEFENDANT: Yes.

25 THE DEPUTY CLERK: Do you understand that you are

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1 under no obligation to waive indictment?

2 THE DEFENDANT: Yes.

3 THE DEPUTY CLERK: Do you understand that if you do
4 not waive indictment, if the government wants to prosecute you
5 they will have to present this case to a grand jury, which may
6 or may not indict you?

7 THE DEFENDANT: Yes.

8 THE DEPUTY CLERK: Do you understand that by signing
9 this waiver of indictment, you've given up your right to have
10 this case presented to a Grand Jury?

11 THE DEFENDANT: Yes.

12 THE DEPUTY CLERK: Do you understand what a Grand Jury
13 is?

14 THE DEFENDANT: Yes.

15 THE DEPUTY CLERK: Have you seen a copy of the
16 information?

17 THE DEFENDANT: Yes.

18 THE DEPUTY CLERK: Do you waive its public reading?

19 THE DEFENDANT: Yes.

20 THE DEPUTY CLERK: Thank you.

21 THE COURT: Ms. Kuznetsova, I'm Judge Francis.

22 You're charged in the information in four counts.

23 Count one charges conspiracy to commit visa fraud in violation
24 of Title 18 of the United States Code, Section 371.

25 Count two charges conspiracy to transport, harbor and

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1 induce the entry of illegal aliens in violation of Title Eight
2 of the United States Code, Section 1324, (a)(1)(A)(v)(1).

3 And count three charges conspiracy to commit marriage
4 fraud in violation of Title 18 of the United States Code,
5 Section 371.

6 And Count Four charges witness tampering in violation
7 of Title 18 United States Code, Section 1512(b)(3).

8 You have the right to enter your plea before a United
9 States District Judge. However, a United States Magistrate
10 Judge may also take your plea, provided that you consent to
11 that procedure.

12 I have before me a consent form. Have you read, and
13 do you understand that form, and did you sign it?

14 THE DEFENDANT: Yes.

15 THE COURT: I'm going to ask you some questions in
16 connection with your plea. Please raise your right hand.

17 (Defendant sworn)

18 THE COURT: Please state your full name?

19 MR. LOCKARD: Your Honor, I apologize for
20 interrupting, but there is one matter that I think warrants
21 just putting on the record.

22 I believe the defendant is a native Russian speaker.
23 I understand she's also fluent in English. And I have use
24 discussed with her counsel her willingness to proceed today
25 without a Russian interpreter.

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1 THE COURT: Thank you.

2 THE DEFENDANT: Zhanna Kuznetsova.

3 THE COURT: And what's your education?

4 THE DEFENDANT: Lawyer back in Russia.

5 THE COURT: So you've had college?

6 THE DEFENDANT: Yes.

7 THE COURT: Are you now or have you recently been
8 under the care of doctor or a psychiatrist for any reason?

9 THE DEFENDANT: No.

10 THE COURT: Are you taking any medications?

11 THE DEFENDANT: A little.

12 THE COURT: Anything that affects your ability to
13 understand --

14 THE DEFENDANT: No.

15 THE COURT: -- these proceedings?

16 THE DEFENDANT: No..

17 THE COURT: Have you ever been treated for alcoholism
18 or drug addiction?

19 THE DEFENDANT: No.

20 THE COURT: Are you feeling all right today?

21 THE DEFENDANT: Pretty good.

22 THE COURT: Have you received a copy of -- you
23 indicated you received a copy of the information and you
24 understand it?

25 THE DEFENDANT: Yes.

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1 THE COURT: Have you had time to talk to your attorney
2 about the charges and about how you wish to plead?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you satisfied with your attorney?

5 THE DEFENDANT: Yes.

6 THE COURT: Are you ready to plead at this time?

7 THE DEFENDANT: Yes.

8 THE COURT: And what is your plea to counts one
9 through four of the information?

10 THE DEFENDANT: Guilty.

11 THE COURT: I need to determine whether your plea of
12 guilty is voluntary and whether you fully understand the
13 charges against you and the possible consequences of your plea,
14 so I'm going to ask you some additional questions.

15 I remind you that the charge against you in count one
16 is conspiracy to commit visa fraud. The law provides as a
17 penalty a term of imprisonment of up to five years, a term of
18 supervised release of up to three years, a maximum fine which
19 is the greatest of \$250,000 or twice any gain derived from the
20 offense, or twice any loss to persons other than yourself as a
21 result of the offense, and a \$100 special assessment. Do you
22 understand those penalties?

23 THE DEFENDANT: Yes.

24 THE COURT: Count two charges conspiracy to traffic in
25 illegal aliens. The law provides as a penalty a term of

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1 imprisonment of up to ten years, a term of supervised release
2 up to three years, a fine of -- maximum fine of up to \$250,000
3 or twice any gain derived from the offense or twice any loss to
4 persons other than yourself as a result of the offense, and a
5 \$100 special assessment. Do you understand those penalties?

6 THE DEFENDANT: Yes.

7 THE COURT: Count three charges conspiracy to commit
8 marriage fraud. The law provides as a penalty a term of
9 imprisonment up to five years, a term of supervised release of
10 up to three years, a maximum fine which is the greatest of
11 \$250,000 or twice any gain derived from the offense or twice
12 any loss to persons other than yourself as a result of the
13 offense, and a \$100 special assessment. Do you understand
14 those penalties?

15 THE DEFENDANT: Yes.

16 THE COURT: And count four charges witness tampering.
17 And the law provides as a penalty a term of imprisonment up to
18 20 years, a term of supervised release of up to three years, a
19 maximum fine which is the greatest of \$250,000 or twice any
20 gain derived from the offense or twice any loss to persons
21 other than yourself as a result of the offense, and a \$100
22 special assessment. Do you understand those penalties?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that the maximum
25 sentence on counts one through four is a total of 40 years

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1 imprisonment?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that as part of any
4 sentence you would be required to make restitution to any
5 victims of the crime?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that as part of any
8 sentence, you could be required to forfeit any monies or
9 property obtained as a result of the crimes or used to
10 facilitate the crimes?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that if you are
13 sentenced to prison and released on supervised release, and you
14 violate the terms of supervised release, you would be returned
15 to prison without credit for the time spent on supervised
16 release; do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that if you are not a
19 United States citizen, you would be subject to deportation on
20 the basis of your conviction?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that you have the right
23 to plead not guilty and the right to a jury trial on these
24 charges?

25 THE DEFENDANT: Yes.

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1 THE COURT: Do you understand that if you plead not
2 guilty and go to trial, the burden would be on the government
3 to prove your guilt beyond a reasonable doubt?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that at a trial you
6 would be presumed innocent until the government proves your
7 guilt?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that you have a right to
10 be represented by an attorney at trial and at all other stages
11 of the proceedings, and, if necessary, an attorney would be
12 appointed for you?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that at a trial you have
15 the right to confront and question any witnesses who testify
16 against you and the right not to be forced to testify against
17 yourself?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that at a trial you
20 would be entitled to testify in your own behalf, to present
21 evidence, to call witnesses to testify, and to subpoena those
22 witnesses, if necessary?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that if you plead
25 guilty, there will be no trial of any kind, and the trial

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1 related rights that I've just described would no longer apply,
2 and the only remaining step would be for the Court to sentence
3 you?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand the nature of the
6 charges to which you're pleading?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand the range of penalties,
9 including the maximum sentence that you could receive on the
10 basis of your plea?

11 THE DEFENDANT: Yes.

12 THE COURT: Have you and your attorney talked about
13 how the Sentencing Commission guidelines might apply to your
14 case?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that the Court will not
17 be able to determine the guidelines of your case until a
18 presentence report has been prepared, and you and the
19 government have had the opportunity to challenge any facts
20 reported there?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that after it's been
23 determined what guidelines apply to a case, the Court has the
24 authority in some circumstances to impose a sentence that is
25 either more severe or less severe than that called for by the

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1 guidelines?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that in determining the
4 sentence, the Court will consider, in addition to the
5 guidelines, possible departures from those guidelines, all of
6 the factors set forth in the statute, that is 18 United States
7 Code Section 3553(a)?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that under some
10 circumstances you or the government may have the right to
11 appeal the sentence?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that there is no parole,
14 and that if you are sentenced to prison, you will not be
15 released on parole?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that the answers you
18 give to me today under oath or in the future, may be used
19 against you in a prosecution for perjury or false statements if
20 you do not tell the truth?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you still wish to plead guilty?

23 THE DEFENDANT: Yes.

24 THE COURT: Have any threats been made to you by
25 anyone to influence you to plead guilty?

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1 THE DEFENDANT: No.

2 THE COURT: Have any promises been made concerning the
3 sentence you would receive?

4 THE DEFENDANT: No.

5 THE COURT: I have before me a plea agreement dated
6 March the 25th, 2013. Have you read that agreement, do you
7 understand it, and did you sign it?

8 THE DEFENDANT: Yes.

9 THE COURT: That plea agreement contains a provision
10 that you will forfeit any monies or property obtained in
11 connection with the crimes or used to facilitate the crimes.
12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: It also provides that if you provide
15 substantial assistance to the government, the government will
16 provide what's known as a 5K1.1 letter at the time of
17 sentencing.

18 Do you understand that it's entirely within the
19 government's discretion to determine whether in fact you have
20 provided substantial assistance?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you also understand that even if the
23 government provides such a letter, that letter does not bind
24 either the Probation Department in the sentence that it
25 recommends, or the sentencing judge and the sentence that he

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1 will ultimately impose; do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that you are agreeing
4 not to appeal or challenge your conviction on the grounds that
5 the government has failed to provide discovery material or
6 information that might tend to prove your innocence?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that you are bound by
9 your plea regardless of the immigration consequences?

10 THE DEFENDANT: Yes.

11 THE COURT: Apart from what is contained in that plea
12 agreement, has anyone offered or promised you anything
13 whatsoever in connection with your plea?

14 THE DEFENDANT: No.

15 THE COURT: Does the government wish to set forth on
16 the record the elements that it would prove at trial?

17 MR. LOCKARD: Yes, your Honor.

18 The elements of count one, which charges the visa
19 fraud conspiracy, has the following elements:

20 1st, two or more individuals entered into an unlawful
21 agreement as charged in the indictment;

22 2nd, that the defendant knowingly and willfully became
23 a member of that conspiracy, and;

24 3rd, that one of the members of the conspiracy
25 knowingly committed at least one overt act in furtherance of

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1 the object as set forth in the indictment.

2 THE COURT: The information.

3 MR. LOCKARD: As set forth in the information. Thank
4 you, your Honor.

5 The object of the conspiracy charged in count one is
6 visa fraud in violation of Title 18 United States Code, Section
7 1546(a). The elements of that object are:

8 1st, that the defendant made a false statement as
9 alleged in the information;

10 that the statement was made in a document required by
11 the immigration laws or regulations;

12 3rd, that the statement was made under oath;

13 4th, the statement was false as to a material fact,
14 and;

15 5th, that the defendant knew the statement was false
16 at the time it was made.

17 With respect to count two of the information, which
18 charges a conspiracy to transport and harbor illegal aliens,
19 the elements of the conspiracy are the same as those with
20 respect to count one.

21 There are multiple objects of the conspiracy charged
22 in count two. The first is harboring illegal aliens in
23 violation of Title 18 United States Code, Section 1324
24 (a) (1) (A) (3).

25 The elements of that object are that the person in

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1 question was in the United States in violation of law;

2 2nd, that the defendant knew or acted in reckless
3 disregard of the fact that the person was an alien who had come
4 to, entered or remained in the United States in violation of
5 law;

6 3rd, that the defendant harbored an alien who had come
7 to, entered or remained in the United States in violation of
8 the law, or concealed or shielded from detection or attempted
9 to do so, that alien;

10 4th, that the defendant's action in harboring,
11 concealing or shielding from detection that alien,
12 substantially facilitated the alien's ability to remain in the
13 United States.

14 The second object of the conspiracy charged in count
15 two is the transportation of illegal aliens in violation of
16 Title Eight United States Code, Section 1324 (a)(1)(A)(2). The
17 elements of that object are that the person in question was in
18 the United States in violation of law;

19 2nd, that the defendant knew or acted in reckless
20 disregard of that fact that the person was an alien who had
21 come to, entered or remained in the United States in violation
22 of the law;

23 3rd, that the defendant transported the alien within
24 the United States;

25 4th, that the defendant acted willfully and in

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1 furtherance of the alien's violation of law, and, if
2 applicable, that the defendant acted for the purpose of
3 commercial advantage or financial gain.

4 The third object of the conspiracy charged in count
5 two is inducing illegal aliens to enter the United States in
6 violation of Title Eight United States Code, Section
7 1324(a)(1)(A)(iv). The elements of that object are that the
8 defendant encouraged or induced an alien to come to enter or
9 reside in the United States in violation of law;

10 2nd, that the defendant did so knowing that the aliens
11 coming to, entering or residing in the United States was or
12 would be in violation of the law, and;

13 3rd, that the defendant acted for the purpose of
14 commercial advantage or financial gain.

15 Count three charges a conspiracy to commit marriage
16 fraud. The object of that conspiracy is a violation of Title
17 Eight United States Code, Section 1325(c). The elements of
18 that object are:

19 First, that the defendant knowingly married a United
20 States citizen;

21 2nd, that the defendant entered into that marriage for
22 the purpose of evading a provision of the United States
23 immigration laws;

24 3rd, that the defendant knew or had reason to know
25 that this conduct was unlawful.

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1 Finally, the fourth count of the information charges
2 witness tampering in violation of Title 18 United States Code,
3 Section 1512(b)(3). The elements of that offense are:

4 First, that on or about the date charged in the
5 information the defendant knowingly and corruptly persuaded a
6 potential witness, and;

7 2nd, that the defendant acted knowingly and with the
8 intent to hinder, delay, or prevent communication to a law
9 enforcement officer of information relating to the commission
10 or possible commission of a federal offense.

11 In addition to these elements which the government
12 would prove beyond a reasonable doubt, the government would
13 also show by a preponderance of the evidence that venue is
14 proper in the Southern District of New York.

15 And I also note that the plea agreement contains a
16 waiver of objection to that venue.

17 THE COURT: Thank you.

18 Ms. Kuznetsova, do you understand that if you were to
19 go trial, the government would have to prove those elements
20 beyond a reasonable doubt?

21 THE DEFENDANT: Yes.

22 THE COURT: Is your plea voluntary and made of your
23 own free will?

24 THE DEFENDANT: Yes.

25 THE COURT: Did you commit the offenses charged?

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1 THE DEFENDANT: Yes.

2 THE COURT: Tell me what you did.

3 THE DEFENDANT: In about 2009 to 2011, I agreed with
4 others to make job offers, fake job offers so they could come
5 to United States.

6 Then we have to provide transportation and housing.

7 In September 6th, 2007 I entered the fraudulent
8 marriage so I could obtain the green card.

9 And after that arrested, I talked to my husband to
10 make our story straight -- fake husband.

11 THE COURT: And at the time you committed those acts,
12 you knew what you were doing was illegal?

13 THE DEFENDANT: Yes.

14 THE COURT: And the individuals who were coming to the
15 United States in connection with what you indicated were false
16 job offers --

17 THE DEFENDANT: Uh-huh.

18 THE COURT: -- were persons who were not otherwise
19 entitled to enter the United States, is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: Does the government have other questions
22 it wish be asked?

23 MR. LOCKARD: Your Honor, I think that's sufficient.

24 THE COURT: Do you know of any reason why the
25 defendant should not plead guilty?

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1 MR. LOCKARD: No, your Honor.

2 THE COURT: Mr. Strazza, do you know any such reason?

3 MR. STRAZZA: No, your Honor.

4 I would just like to add something to the record. I
5 know your Honor touched upon it briefly. But I want the record
6 to reflect I've had numerous lengthy conversations with Ms.
7 Kuznetsova about potential collateral consequences to this
8 plea, including immigration consequences. She's indicated to
9 me that she fully understands that and wishes to go forward
10 with the plea in any event.

11 THE COURT: Thank you.

12 I'm satisfied that the defendant understands the
13 nature of the charges against her and consequences of the plea
14 of guilty.

15 I am also satisfied that the plea is voluntary and
16 knowingly, and that there is a factual basis for it. I'll,
17 therefore, recommend that Judge Marrero accept the defendant's
18 plea of guilty to counts one through four of the information.

19 Do we have a sentencing date?

20 MR. LOCKARD: I don't believe there is a sentence date
21 set at this time.

22 THE COURT: We have a control date?

23 MR. LOCKARD: We can set a control date for 90 days.

24 THE COURT: July 12th.

25 MR. STRAZZA: Your Honor, I'm actually on vacation

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1 that week. Can I have a date the following week, if that works
2 for the Court?

3 THE COURT: July 19th?

4 MR. STRAZZA: Yes.

5 THE COURT: And at this time no presentence report
6 will be requested.

7 Bail conditions?

8 MR. LOCKARD: We ask the defendant's current bail
9 conditions be continued.

10 THE COURT: Bail will be continued. Thank you.

11 MR. LOCKARD: One last matter.

12 THE COURT: Yes.

13 MR. LOCKARD: In light of the nature of the plea
14 agreement, we'd ask that the transcript be sealed, pending
15 further order of Judge Marrero.

16 THE COURT: Application is granted.

17 MR. LOCKARD: Thank you, your Honor.

18 MR. STRAZZA: Thank you.

19 THE DEFENDANT: Thank you.

20 (Adjourned to July 19, 2013)

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